

AMENDED IN ASSEMBLY APRIL 10, 2003
AMENDED IN ASSEMBLY MARCH 13, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 140

Introduced by Assembly Member Levine
(Coauthor: Assembly Member Bermudez)

January 17, 2003

An act to amend ~~Section~~ Sections 2800.1, 2800.2, and 2800.3 of, and to add Section 2800.6 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 140, as amended, Levine. Vehicles: peace officers: fleeing.

(1) *Existing law makes it a misdemeanor for a person operating a motor vehicle to intentionally evade, willfully flee, or otherwise attempt to evade a pursuing peace officer's motor vehicle, if certain conditions exist.*

This bill would make a violation of this provision punishable as either a misdemeanor or a felony. The bill thereby would establish a state-mandated local program.

(2) *Existing law makes it a misdemeanor or a felony for any person operating a motor vehicle to willfully flee or to otherwise attempt to evade a pursuing peace officer, if certain conditions exist, including that the pursued vehicle be driven with a willful or wanton disregard for the safety of persons or property.*

This bill would make a violation of this provision punishable exclusively as a felony. The bill thereby would establish a state-mandated local program.

(3) Existing law makes it a misdemeanor or a felony for any person while operating a motor vehicle to intentionally evade, willfully flee, or otherwise attempt to evade a pursuing peace officer's motor vehicle or bicycle, if certain conditions exist ~~and, including that the prohibited~~ conduct proximately causes serious bodily injury, as defined, or death. A violation of this provision is punishable by a specified term of imprisonment in a county jail or in state prison for 3, 4, or 5 years, or by a specified fine, or by both the fine and imprisonment.

~~This bill would instead make that violation exclusively a felony punishable by imprisonment in the state prison for 3, 5, or 7 years or by a specified fine, or by both the fine and imprisonment. increase the maximum fines and terms of imprisonment for a violation of this provision.~~

The bill would make a violation of this provision punishable exclusively a felony. The bill thereby would establish a state-mandated local program.

~~(2) By making this violation exclusively a felony, this bill would thereby impose a state-mandated local program.~~

~~(3)~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *This act shall be known, and may be cited, as*
2 *Harley's Law.*

3 SEC. 2. *Section 2800.1 of the Vehicle Code is amended to*
4 *read:*

5 2800.1. (a) Any person who, while operating a motor vehicle
6 and with the intent to evade, willfully flees or otherwise attempts
7 to elude a pursuing peace officer's motor vehicle, is guilty of a
8 ~~misdemeanor~~ *public offense, punishable by imprisonment in the*
9 *county jail for not more than one year or by imprisonment in the*
10 *state prison, if all of the following conditions exist:*

(1) The peace officer's motor vehicle is exhibiting at least one lighted red lamp visible from the front and the person either sees or reasonably should have seen the lamp.

(2) The peace officer's motor vehicle is sounding a siren as may be reasonably necessary.

(3) The peace officer's motor vehicle is distinctively marked.

(4) The peace officer's motor vehicle is operated by a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, and that peace officer is wearing a distinctive uniform.

(b) Any person who, while operating a motor vehicle and with the intent to evade, willfully flees or otherwise attempts to elude a pursuing peace officer's bicycle, is guilty of a misdemeanor if the following conditions exist:

(1) The peace officer's bicycle is distinctively marked.

(2) The peace officer's bicycle is operated by a peace officer, as defined in paragraph (4) of subdivision (a), and that peace officer is wearing a distinctive uniform.

(3) The peace officer gives a verbal command to stop.

(4) The peace officer sounds a horn that produces a sound of at least 115 decibels.

(5) The peace officer gives a hand signal commanding the person to stop.

(6) The person is aware or reasonably should have been aware of the verbal command, horn, and hand signal, but refuses to comply with the command to stop.

SEC. 3. Section 2800.2 of the Vehicle Code is amended to read:

2800.2. (a) If a person flees or attempts to elude a pursuing peace officer in violation of Section 2800.1 and the pursued vehicle is driven in a willful or wanton disregard for the safety of persons or property, the person driving the vehicle, upon conviction, shall be punished by imprisonment in the state prison, ~~or by confinement in the county jail for not less than six months nor more than one year~~ *for one, two, or three years*. The court may also impose a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), or may impose both that imprisonment ~~or confinement~~ and fine.

(b) For purposes of this section, a willful or wanton disregard for the safety of persons or property includes, but is not limited to,

1 driving while fleeing or attempting to elude a pursuing peace
2 officer during which time either three or more violations that are
3 assigned a traffic violation point count under Section 12810 occur,
4 or damage to property occurs.

5 *SEC. 4.* Section 2800.3 of the Vehicle Code is amended to
6 read:

7 2800.3. Whenever willful flight or attempt to elude a pursuing
8 peace officer in violation of Section 2800.1 proximately causes
9 serious bodily injury to any person, the person driving the pursued
10 vehicle, upon conviction, shall be punished by imprisonment in
11 the state prison for ~~three, four, or five~~ *four, five, or seven* years, ~~by~~
12 ~~imprisonment in the county jail for not more than one year,~~ or by
13 a fine of not less than two thousand dollars (\$2,000) nor more than
14 ~~ten~~ *fifteen* thousand dollars (~~\$10,000~~) (*\$15,000*), or by both that
15 fine and imprisonment.

16 For purposes of this section, “serious bodily injury” has the
17 same meaning as defined in paragraph (4) of subdivision (f) of
18 Section 243 of the Penal Code.

19 ~~*SEC. 2.*~~

20 *SEC. 5.* Section 2800.6 is added to the Vehicle Code, to read:

21 2800.6. Whenever willful flight or attempt to elude a pursuing
22 peace officer in violation of Section 2800.1 proximately causes the
23 death of a person, the person driving the pursued vehicle, upon
24 conviction, shall be punished by imprisonment in the state prison
25 for ~~three, five, or seven~~ *five, seven, or nine* years, or by a fine of
26 not less than two thousand dollars (\$2,000) nor more than ~~ten~~
27 *twenty* thousand dollars (~~\$10,000~~) (*\$20,000*), or by both that fine
28 and imprisonment.

29 ~~*SEC. 3.*~~

30 *SEC. 6.* No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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